

1 H. SINCLAIR KERR, JR. (61713)
2 MICHAEL VON LOEWENFELDT (178665)

2 ADRIAN J. SAWYER (203712)
3 HOLLY HOGAN (238714)

3 **KERR & WAGSTAFFE LLP**

4 100 Spear Street, Suite 1800
5 San Francisco, CA 94105-1528
Telephone: (415) 371-8500
5 Fax: (415) 371-0500

6 Attorneys for Defendants
7 AXA ADVISORS, LLC, and
AXA EQUITABLE LIFE INSURANCE CO.

8

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 PAUL MEOLA, individually, and on behalf of
13 all others similarly situated,

14 Plaintiff,

15 vs.
16 AXA FINANCIAL, INC.; AXA ADVISORS,
17 LLC; AXA EQUITABLE LIFE INSURANCE
CO.; and DOES 1 through 10, inclusive,

18 Defendants.

19 Case No. C 06 4291 JSW

20 **STIPULATION AND [PROPOSED]
ORDER CONTINUING CASE
MANAGEMENT CONFERENCE**

21 Hon. Jeffrey S. White

22

23

24

25

26

27

28

STIPULATION

WHEREAS, on July 12, 2006, Plaintiff filed this putative class action alleging violations of federal and state wage and hour laws;

WHEREAS, on November 21, 2006, this Court entered a stipulated order dismissing the second cause of action and former defendant AXA Financial, Inc., and in the same order set the initial case management conference for February 16, 2007;

WHEREAS, on January 5, 2007, defendants AXA Advisors, LLC (“AXA Advisors”), and AXA Equitable Life Insurance Co. (collectively “Defendants”) answered the complaint;

WHEREAS, on November 17, 2006, two plaintiffs filed a putative class action in the California Superior Court for the County of Los Angeles, which alleges violations of federal and state wage and hour laws by AXA Advisors and is entitled *Lennon, et al. v. AXA Advisors, LLC*;

WHEREAS, the *Lennon* complaint, which is attached as Exhibit A to this stipulation and [proposed] order, makes substantially identical allegations against AXA Advisors as are made in this action;

WHEREAS, on December 20, 2006, the *Lennon* plaintiffs served the putative class action complaint on AXA Advisors;

WHEREAS, on January 17, 2007, AXA Advisors timely removed the *Lennon* action to the United States District Court for the Central District of California, where it has been docketed as Case No. CV07 0419 DDP (AJWX);

WHEREAS, the *Lennon* plaintiffs and AXA Advisors are negotiating the transfer of the *Lennon* action to this District, where it could be related to and consolidated or coordinated with this action;

WHEREAS, absent an agreement from the *Lennon* plaintiffs, AXA Advisors intends to move for a transfer of *Lennon* to this District, pursuant to 28 U.S.C. § 1404(a), which motion may not be filed until February 15, 2007, pursuant to the Local Rules of the Central District;

WHEREAS, the parties to this action agree that the *Lennon* case is related to this case within the meaning of Civil Local Rule 3-12(a), so that upon *Lennon*'s transfer it would be assigned to this Court;

WHEREAS, Plaintiff and Defendants in this action have agreed to discuss consolidation or coordination of *Lennon* with this action upon a transfer of *Lennon* to this district; and

WHEREAS, the possibility that *Lennon* will be consolidated or coordinated with this action bears on questions of discovery and scheduling that would be addressed at the case management conference:

IT IS HEREBY STIPULATED by the parties, through their counsel of record, that:

7 1. The case management conference scheduled in this action be continued to April
8 13, 2007, to allow time for the question of the *Lennon* matter's transfer to this district to be
9 resolved, either by stipulation or by motion, and for the parties to discuss consolidation of the
10 instant action with *Lennon*.

11 2. On or before March 16, 2007, the parties to this action shall submit a report to the
12 Court informing the Court of the status of the following issues: (a) transfer of *Lennon* to this
13 District; (b) relation of *Lennon* to this action; and (c) consolidation of *Lennon* with this action.

15 | DATED: February 2, 2007

KERR & WAGSTAFFE LLP

By _____/s/
ADRIAN J. SAWYER

Attorneys for Defendants
AXA ADVISORS, LLC, and
AXA EQUITABLE LIFE INSURANCE CO.

DATED: February 2, 2007

LIM, RUGER & KIM, LLP

By _____/s/
Nicolas Orihuela

Local Counsel for Plaintiff
PAUL MEOLA

SCHIFFRIN, BARROWAY, TOPAZ & KESSLER, LLP

Lead Counsel for Plaintiff
PAUL MEOLA

[PROPOSED] ORDER

Based on the above stipulation of the parties, and for good cause shown,

IT IS HEREBY ORDERED that:

1. The case management conference currently set for February 16, 2007, is continued to April 13, 2007.

2. On or before March 16, 2007, the parties to this action shall submit to this Court a report on the following issues: (a) transfer of *Lennon* to this District; (b) relation of *Lennon* to this action; and (c) consolidation of *Lennon* with this action.

DATED: February 5 , 2007

Hon. Jeffrey S. White
UNITED STATES DISTRICT JUDGE